

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-160328
		TRIAL NO. 16CRB-817
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
DARRELL HAMMONDS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Darrell Hammonds challenges his conviction for assault, in violation of R.C. 2903.13(A). In the late evening of January 10, 2016, Hammonds was looking for his girlfriend, Alicia Smith. Smith's mother lived across the street in the home of her boyfriend, Allen Walls. Hammonds went to Walls' home. Though Smith was there, Walls refused to let Hammonds speak to her. Tempers flared. Hammonds attempted to punch Walls and then grabbed his neck and attempted to choke him. Walls, who had been diagnosed with advanced lung cancer and had a port in his neck to permit the intravenous introduction of chemotherapy drugs, became lightheaded and fell to the ground.

Following a bench trial, the trial court found Hammonds guilty and imposed a sentence which include a suspended jail term, credit for time already served, a \$100 fine, and a one-year period of community control.

In his sole assignment of error, Hammonds challenges the weight and sufficiency of the evidence adduced to support his conviction. R.C. 2903.13(A) proscribes knowingly causing or attempting to cause physical harm to another person.

Our review of the entire record fails to persuade us that the trial court, acting as the trier of fact, clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). The court was entitled to reject Hammonds' theory that he did not strike or choke Walls. Hammonds' brother and sister testified that from the sound of the confrontation and its aftermath, the encounter never escalated beyond strong words. But Hammonds testified that Walls had attempted to strike him first and that he had pushed Walls to avoid the blow.

The state adduced ample evidence that Hammonds had attempted to strike Walls and had grabbed him by the neck, including the testimony of the victim and two eyewitnesses, and a photograph of the victim's neck taken by police after the attack. As the weight to be given the evidence and the credibility of the witnesses was primarily for the trier of fact to determine, the trial court, in resolving conflicts in the testimony, could properly have found that Hammonds had knowingly caused or attempted to cause physical harm to Walls. *See* R.C. 2903.13(A); *see also State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus.

Moreover, the record reflects substantial, credible evidence from which the court could have reasonably concluded that all elements of the charged crime had been proved beyond a reasonable doubt. *See State v. Conway*, 108 Ohio St.3d 214, 2006-Ohio-791, 842 N.E.2d 996, ¶ 36. The assignment of error is overruled.

Therefore, we affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., CUNNINGHAM and ZAYAS, JJ.

To the clerk:

Enter upon the journal of the court on February 15, 2017
per order of the court _____.
Presiding Judge